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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

AMERIPRIDE SERVICES INC., a
Delaware corporation,

Plaintiff,

vs.

VALLEY INDUSTRIAL SERVICES, INC.,
a former California Corporation, et al.

Defendants.

Case No. CIV. 2-00-113 MCE-DB

**STIPULATION AND ORDER
REGARDING PROCEDURE FOR
SUBMITTING DEPOSITION TESTIMONY
AT TRIAL**

Trial Date: October 17, 2016
Complaint Filed: January 20, 2000

AND CONSOLIDATED ACTION AND
CROSS AND COUNTER-CLAIMS.

1 Plaintiff AMERIPRIDE SERVICES INC. ("AmeriPride") and Defendant TEXAS
2 EASTERN OVERSEAS, INC. ("TEO"), by and through their respective counsel, stipulate
3 with respect to the procedure for submitting deposition testimony at trial, as follows:

4 **RECITALS**

5 1. Following remand from the Ninth Circuit Court of Appeals, the Court issued
6 its July 20, 2015 Pretrial Scheduling Order ("Order"). Dkt. 988.¹ The Court subsequently
7 issued a Minute Order continuing the trial date and deadlines for pretrial submissions
8 ("Minute Order"). Dkt. 1024.

9 2. Pursuant to the Order and the Minute Order, the Court has set a one (1) day
10 bench trial for Monday, October 17, 2016.

11 3. To expedite the trial, the Parties have stipulated that deposition testimony
12 given in this civil action, including any civil action with which this civil action has been
13 consolidated, may be used at trial in lieu of calling a live witness.

14 4. As required by the Order and pursuant to Local Rule 281, the Parties will list
15 all witnesses they propose to offer at trial in the Joint Pretrial Conference Statement.

16 5. The parties will provide notice of their intent to call any witness listed on their
17 respective witness lists by deposition no later than 7 days after the final pretrial
18 conference.

19 6. Designation of deposition testimony will be as follows:

20 a. Within fifteen (15) days of giving notice of intent to call a witness by
21 deposition, the party proposing to call a witness by deposition shall
22 designate those portions of the deposition testimony and any deposition
23 exhibits discussed within those portions;

24 b. Twenty-one (21) days later, the other party shall file and serve counter
25 designations of deposition testimony and deposition exhibits, along with
26 any objections to the designated deposition testimony and exhibits;

27 ¹ "Dkt." Refers to the Court's ECF Docket number for this case.
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- c. As used herein, the term “counter designations” means any testimony from the same deposition as the designated testimony. The counter designation need not otherwise rebut, contradict, or otherwise relate to the designated testimony;
- d. Any responses to objections to the designated testimony and/or exhibits and any objections shall be served and filed 14 days thereafter; and
- e. Any responses to the objections to the counter designated testimony and/or exhibits shall be served and filed 7 days thereafter.

7. The designation by any party of its intent to utilize the deposition testimony of a witness shall not prohibit any party from calling that witness to testify live at trial, provided the live testimony is not cumulative.

8. The Parties stipulate that deposition exhibits discussed within designated deposition testimony must be designated in accordance with the schedule outlined in Paragraph 5 of this stipulation. However, nothing in this stipulation shall preclude the Parties from designating deposition exhibits on its Exhibit List addenda to the Joint Pretrial Statement.

9. The Parties have agreed to jointly file deposition transcripts with the Court which contain color-coded designations as follows:

- a. AmeriPride's initial designations are denoted by red boxes surrounding the text of the initial designation;
- b. TEO's initial designations are denoted by blue boxes surrounding the text of the initial designation;
- c. AmeriPride's counter designations are denoted by red lines underlining the text of the counter designation; and
- d. TEO's counter designations are denoted by blue lines underlining the text of the counter designation.

10. The Parties agree that the trial should proceed as efficiently as possible.

11. The Parties agree that submitting designated deposition testimony to the Court will help the trial proceed more efficiently than calling live witnesses and/or reading such testimony into the record.

12. The Parties respectfully request Court approval of the outlined schedule and procedure for submitting deposition testimony at trial in lieu of calling a live witness.

13. Good cause exists for the Court to grant the Parties' request because it will: (1) facilitate a more efficient trial; (2) encourage efficient pre-trial activities between the Parties (3) will not prejudice the Parties or the Court and will not delay the case; and (4) will not alter or affect the Parties' compliance with any other requirements in the Court's Pretrial Scheduling Order.

STIPULATION

Based on the foregoing, the Parties stipulate as follows:

1. The Parties agree that they will comply with the procedures set forth above;

2. All designations and counter designations of deposition testimony, and exhibits discussed within the designated testimony, unless subject to an objection that was sustained by the Court, will be admitted into evidence and become part of the official court record for the trial; and

3. Objections to deposition testimony or deposition exhibits shall be raised according to the procedures set forth above; however, nothing in this stipulation shall alter the Court's requirements for raising objections to deposition testimony.

Date: August 8, 2016

BASSI, EDLIN, HUIE & BLUM LLP

By: /s/ Fred M. Blum
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TEXAS EASTERN OVERSEAS, INC.

1 Date: August 8, 2016

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18 Date: August 8, 2016

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20 By: /s/ Lee N. Smith
21 LEE N. SMITH
22 Attorneys for Plaintiffs
23 AMERIPRIDE SERVICES INC.
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ORDER

The parties' stipulation regarding the use of deposition testimony at trial (ECF No. 1057) is hereby adopted as an order of this Court.

IT IS SO ORDERED.

Dated: August 10, 2016



MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE